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FILED
KEN BENNETT
SECRETARY OF STATE

CHAPTER 106

SENATE BILL 1090

AN ACT

AMENDING SECTION 46-408, ARIZONA REVISED STATUTES; RELATING TO CHILD SUPPORT OBLIGATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 46-408, Arizona Revised Statutes, is amended to
3 read:

4 46-408. Assignment of support rights; priority; definitions

5 A. The assignment under section 46-407 is subject to all of the
6 following:

7 1. Terminates with respect to current support when the person entitled
8 to receive support is no longer receiving temporary assistance for needy
9 families.

10 2. While receiving temporary assistance for needy families the
11 assignment applies to any rights to support from any other person. ~~including~~
12 BEFORE OCTOBER 1, 2009, THE ASSIGNMENT APPLIES TO any support that accrued
13 before receiving temporary assistance for needy families. ON OR AFTER
14 OCTOBER 1, 2009, THE ASSIGNMENT DOES NOT APPLY TO ANY SUPPORT THAT ACCRUED
15 BEFORE RECEIVING TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.

16 3. Does not preclude enforcement of support in the name of the person
17 entitled to receive support.

18 4. Does not bind any person who lawfully pays support to the person
19 entitled to receive support.

20 5. Does not assign amounts that exceed the amount of temporary
21 assistance for needy families paid to the person entitled to receive support
22 to which the state is entitled to be reimbursed.

23 6. When the person entitled to receive support is not receiving
24 temporary assistance for needy families, amounts paid for support shall be
25 credited first to that month's current court ordered support up to an amount
26 equal to the amount of the court order in effect at the time of payment and
27 the excess, if any, shall be subject to the assignment.

28 7. The assignment applies to arrearages provided in the court order
29 subject to the following priorities:

30 (a) If the person entitled to receive support is currently receiving
31 temporary assistance for needy families, the state's claim for arrearages
32 shall have priority over all other support claims except for current support.

33 (b) If the person entitled to receive support is not currently
34 receiving temporary assistance for needy families, the state and the person
35 entitled to receive support shall have a proportionate claim for any
36 arrearages owed to the state and the custodial parent under a child support
37 order. The arrearage payment shall be distributed on the total outstanding
38 arrearage amount and the percentage of the total outstanding arrearage owed
39 to the state and the person entitled to receive support.

40 B. Notwithstanding subsection A, paragraph 7 of this section, for
41 distributions that occur or should have occurred beginning October 1, 1997,
42 the department shall distribute support payments as prescribed in title IV-D
43 of the social security act and its implementing regulations as follows:

44 1. Distribute to the family amounts not subject to the assignment.

1 2. Pay the federal government the federal share of the amount
2 collected.

3 3. Retain the state share of the amount collected.

4 4. Retain payments collected through the federal income tax refund
5 intercept program to the extent past due support has been assigned to the
6 state. Any amount collected in excess of the past due support assigned to
7 the state shall be distributed to the past due support owed to the family.

8 C. An obligee who disagrees with the distribution or disbursement of
9 support payments pursuant to subsection B or G of this section may request an
10 administrative review pursuant to section 25-522 within thirty business days
11 after the date of the department's notice to the obligee of the distribution
12 and disbursement of support received for the prior period. In title IV-D
13 cases with a receipt of support, the department shall send notice to the
14 obligee each month.

15 D. In title IV-D cases that have never involved public assistance and
16 in public assistance cases that do not have any receipts of support for the
17 last quarter, the department shall send written notice to the obligee
18 regarding distribution and disbursement of support only for the most recent
19 quarter of the year. The obligee has thirty business days after the date of
20 that notice to submit a written request for an administrative review. The
21 department or its agent shall send a written notice of acknowledgment of
22 receipt of request for administrative review to the obligee within ten
23 business days after it receives a timely request for review. If the
24 department or its agent needs additional information from the obligee to
25 respond to the request for review, the department shall indicate this fact in
26 writing. The department or its agent may also request information from other
27 sources. The department or its agent shall issue a written determination not
28 later than thirty business days after the date of the notice of
29 acknowledgment of receipt of request for administrative review or, if
30 additional information is required, not later than thirty business days after
31 it receives this information. If additional information requested by the
32 department or its agent is not received within thirty business days after the
33 request for more information, the department or its agent shall issue a
34 written determination within ten business days after the due date based on
35 the information available. The department or its agent shall send a copy of
36 the written determination to the obligee by first class mail.

37 E. The obligee shall make any appeal of the department's or its
38 agent's determination in writing pursuant to title 41, chapter 14, article 3
39 and shall file it in the department's office of appeals within thirty
40 business days after the date of the written determination. An obligee may
41 appeal the department's final determination pursuant to section 41-1993.

42 F. A payment that is credited against past due support shall be
43 applied first to principal and then to interest.

44 G. The department may adopt rules addressing interest and distribution
45 of all monies received by the department in child support cases.

- 1 H. For THE purposes of this section:
- 2 1. "Arrearage" has the same meaning prescribed in section 25-500.
- 3 2. "Business day" means a day on which state offices are open for
- 4 regular business.
- 5 3. "Support" has the same meaning prescribed in section 25-500.
- 6 Sec. 2. Retroactivity
- 7 This act applies retroactively to from and after September 30, 2009.

APPROVED BY THE GOVERNOR APRIL 20, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2010.